

Neifeld Docket No: CAT/29US-SCROCO

Application/Patent No: 09/401,939

USPTO CONFIRMATION NO: 5333

File/Issue Date: 9/23/1999

Inventor/title: Scroggie/System and Method for Providing Shopping Aids and Incentives to Customers Through a Computer Network

Examiner/ArtUnit: Janvier/3622

BPAI DOCKET NO: 2008-4478

EX PARTE SCROGGIE

37 CFR 1.7(c) FILING RECEIPT AND TRANSMITTAL LETTER WITH AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

1. THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY FEES WHICH MAY BE REQUIRED, OR CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NUMBER 50-2106.

2. FEES (PAID HEREWITH BY EFS CREDIT CARD SUBMISSION) \$:

A. CLAIMS FEES

0.00 \$ - (claims previously paid for; currently present; \$50 per addl. claim over 20.)

0.00 \$ - (independent previously paid for; currently present; \$200 per addl. claim over 3)

B. OTHER FEES \$:

3. THE FOLLOWING DOCUMENTS ARE SUBMITTED HEREWITH:

Notification of Unconsidered BPAI Order (2 pages)

Exhibit 1: A copy of the July 17, 2008 filing of a notification of undecided petition affecting appeal

Exhibit 2: A copy of the November 29, 2007 order returning undocketed appeal to the examiner

4. FOR INTERNAL NEIFELD IP LAW, PC USE ONLY

USPTO CHARGES: \$ 0 CLIENT BILLING MATTER: BANK ACCOUNT/Check: G/L ACCOUNT: 5010	FIRM CHARGES: DESCRIPTION: LAWYER: BTM
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INITIALS OF PERSON WHO *ENTERED* ACCOUNTING DATAGRAM

ATTORNEY SIGNATURE (AUTHORIZING DEPOSIT ACCOUNT)

DATE: 10-28-2008

SIGNATURE: /RichardNeifeld#35,299/

RICHARD NEIFELD

Printed: October 29, 2008 (10:28am)

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NOTIFICATION OF CONTINUING FAILURE TO COMPLY WITH BPAI ORDER

REMARKS

Page 2 line 12 through page 3 line 4 in the November 29, 2007 Order returning undocketed appeal to the examiner stated that:

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- (1) to consider the PTO-1449 form received March 6, 2001;
- (2) to acknowledge and properly respond to the Petition received September 23, 1999; have response made of record, and a copy mailed to Appellants;
- (3) to acknowledge and properly respond to the Terminal Disclaimer received September 16, 2005; have response made of record, and a copy mailed to Appellants;
- (4) to instruct Appellants to file a Paper adding the abovementioned reference to the evidence Appendix; and
- (5) for such further action as may be appropriate.

Item (4) is moot in view of the CAPJs DECISION ON PETITIONS dated 7/22/2008.

To date, items 1-3 in the November 29, 2007 order have not been acted on.

This appeal was originally filed March 14, 2003 and it would apparently be futile, and certainly would unreasonably delay a decision on the merits, to again remand the case to the examiner. Such action is shown to be futile and the applicant wants finality on the issues appealed.

Given the dismal speed of action in this application, it makes no sense to again remand the file with yet another instruction to the examiner to consider the PTO-1449 form received March 6, 2001.

Given the dismal speed of action in this application, it makes no sense to again remand the file with yet another instruction to the examiner to consider the petition to make special, filed September 23, 1999.

Given the dismal speed of action in this application, it makes no sense to again remand the file with yet another instruction to the examiner to act on the Terminal Disclaimer, filed September 16, 2005.

Instead, the undersigned requests the CAPJ order a rapid decision on the merits of this appeal, and upon issuance of a decision on the merits, issue an Order again ordering the examiner to act on items 1-3.

Respectfully Submitted,

10-28-2008

/Richard Neifeld#35,299/

DATE

Richard A. Neifeld

Attorney of Record

Registration No. 35,299

BTM/ran

Printed: October 29, 2008 (10:28am)

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